

FINAL REGULATIONS

For information concerning Final Regulations, see Information Page.

Symbol Key

Roman type indicates existing text of regulations. *Italic type* indicates new text. Language which has been stricken indicates text to be deleted. [Bracketed language] indicates a change from the proposed text of the regulation.

TITLE 9. ENVIRONMENT

VIRGINIA WASTE MANAGEMENT BOARD

Title of Regulation: 9 VAC 20-110. Regulations Governing the Transportation of Hazardous Materials (amending 9 VAC 20-110-90 and 9 VAC 20-110-110).

Statutory Authority: §§ 10.1-1450 and 44-146.30 of the Code of Virginia; 49 USC §§ 1809-1810 and 49 CFR Parts 107, 170-180, 383 and 390-397.

Effective Date: September 8, 2004.

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Summary:

The regulations include requirements in the form of incorporated federal regulatory text at Title 49 of the Code of Federal Regulations. The federal regulatory text as it existed October 1, 2002, was specified as that incorporated. Immediate Final Rule 2003 addresses only 9 VAC 20-110-110, the section making the specification of the date of incorporated text. This section is altered by striking the previous prescribed date and adopting the new date of October 1, 2003, thus making it the new date of reference of all incorporated federal regulatory text. The language is also clarified to the effect that the effective date of the incorporated text will be the effective date as published in the Federal Register notice or the effective date specified in this amendment, whichever is later.

9 VAC 20-110-90. Enforcement.

A. The Department of State Police and all other law-enforcement officers of the Commonwealth who have satisfactorily completed the course in Hazardous Materials Compliance and Enforcement as prescribed by the U.S. Department of Transportation in federal safety regulations and safety inspection procedures pertaining to the transportation of hazardous materials, shall enforce the provisions of Article 7 (§ 10.1-1450 et seq.) of Chapter 14 of Title 10.1 of the Code of Virginia, and any rule or regulation promulgated herein. Those law-enforcement officers certified to enforce the provisions of this article, and any regulations promulgated under such article, shall annually receive in-service training in current federal safety regulations and safety inspection procedures pertaining to the transportation of hazardous materials.

B. Judicial enforcement of these regulations shall be governed by § 10.1-1455 of the Code of Virginia. (Note: The federal regulations at 40 CFR Part 171 and elsewhere set maximum civil penalties. Section 10.1-1455 of the Code of Virginia limits the maximum civil penalty for the acts occurring

on any single day to \$25,000 per violation. Therefore, this is the maximum penalty available under these regulations in courts of the Commonwealth. Maximum penalties for acts occurring over more than one day are \$25,000 per violation for each day, each day of violation constituting a separate offense.)

9 VAC 20-110-110. Compliance.

Every person who transports or offers for transportation hazardous materials within or through the Commonwealth of Virginia shall comply with the federal regulations governing the transportation of hazardous materials promulgated by the United States Secretary of Transportation with amendments promulgated ~~and in effect~~ as of October 1, 2002 ~~(except as otherwise specified below)~~ 2003, or as specified in the federal rule, whichever is later, pursuant to the Hazardous Materials Transportation Act, and located at Title 49 of the Code of Federal Regulations as set forth below and which are incorporated in these regulations by reference:

1. Exemptions. 49 CFR Part 107, Subpart B.
2. Registration of Persons Who Offer or Transport Hazardous Materials in 49 CFR Part 107, Subpart G.
3. Hazardous Materials Regulations in 49 CFR Parts 171 through 177.
4. Specifications for Packagings in 49 CFR Part 178.
5. Specifications for Tank Cars in 49 CFR Part 179.
6. Continuing Qualifications and Maintenance of Packagings in 49 CFR Part 180.
7. Motor Carrier Safety Regulations in 49 CFR Parts 390 through 397.

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